

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
MICHAEL HUNTER	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 05-10904-NG
	)	
LUIS SPENCER	)	
Respondent.	)	
_____	)	

**RESPONDENT'S MEMORANDUM OF LAW  
IN SUPPORT OF THE MOTION TO DISMISS**

This memorandum is submitted in support of Luis Spencer's (the respondent) Motion to Dismiss the habeas corpus petition filed by Michael Hunter (the petitioner) on the ground that it is time-barred under 28 U.S.C. § 2244(d)(1). The respondent has not answered the petition and his remaining defenses are not briefed in light of this motion.<sup>1</sup>

**PRIOR PROCEEDINGS**

On July 1, 1993, a Middlesex County grand jury returned indictments against the petitioner for unarmed robbery and first degree murder. See docket sheets attached, p. 3. A jury trial commenced on November 16, 1994, (Justice Patrick King, presiding). See docket, p. 7. On December 7, 1994, the jury found the petitioner guilty of both indictments. See docket, p. 8. Judge King sentenced the petitioner to a life sentence for the murder conviction and to and concurrent term of eighteen to twenty years on the unarmed robbery

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<sup>1</sup> Since it is clear from the face of the petition and the attached docket sheets that it is time-barred, the respondent will not, in the interest of economy, answer the petition or address any additional affirmative defenses. Should this Court rule that the petition is not time-barred, the respondent respectfully requests thirty days from the date of receipt of this Court's order to answer the petitioner or file a supplemental memorandum which addresses the additional affirmative defenses and/or the merits of the petition.

conviction. See docket, p. 8. The petitioner filed a notice of appeal on December 29, 1994. See docket, p. 9.

The Supreme Judicial Court affirmed the petitioner's convictions on February 20, 1998. *Commonwealth v. Hunter*, 426 Mass. 715, 690 N.E.2d 815 (1998). See docket, p. 10. On October 23, 2003, the petitioner filed a motion for new trial. See docket, p. 10. Judge Brassard denied this motion on June 25, 2004. The petitioner claims to have filed an application for leave to appeal the denial of his new trial motion, but that the SJC has not ruled on the application.<sup>2</sup>

### **ARGUMENT**

#### **I. THE HABEAS CORPUS PETITION MUST BE DISMISSED WHERE IT IS BARRED BY THE STATUTE OF LIMITATIONS.**

Pursuant to 28 U.S.C. § 2244(d), as amended by the AEDPA:

- (1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
  - (C) the date on which the constitutional right asserted was initially recognized by the

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<sup>2</sup> The SJC for Suffolk County confirmed that they had received an application to proceed in forma pauperis and a "petition for leave to be heard on the original record" in August 2004, but had not received the proper documents that would constitute an application for leave to appeal.

Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

The petition in this case was filed on April 28, 2005. For purposes of the AEDPA, enacted on April 24, 1996, the petitioner had one year after his conviction became final by the conclusion of direct review, which includes a ninety day period after the SJC's decision in which he could have filed a petition for certiorari to the Supreme Court. § 2244(d)(1)(A). Thus, the petitioner's conviction became final on May 20, 1998. He then had one year, or until May 20, 1999 to file a habeas corpus petition or a post-conviction motion, which would have tolled the statute of limitations. See § 2244(d)(2). The petitioner did file a post-conviction motion, but not until October 23, 2003, more than four years after the one year statute of limitations period had expired. Therefore, his petition for habeas corpus, filed on April 28, 2005, almost seven years after his conviction became final, and almost six years after the one year statute of limitations period expired, is time-barred under the statute of limitations for habeas petitions set forth in 28 U.S.C. §2244(d), and must be dismissed.

**CONCLUSION**

For the foregoing reasons, the petition for habeas corpus relief should be dismissed with prejudice.

Respectfully submitted,  
THOMAS F. REILLY  
Attorney General

/s/ Susanne G. Reardon  
Susanne G. Reardon, BBO # 561669  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200, ext. 2832

Date: May 27, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served on

Michael Hunter, pro se  
MCI Norfolk, P.O. Box 43  
2 Clark Street  
Norfolk, MA 020256

by first class mail, postage prepaid, on May 27, 2005.

/s/ Susanne G. Reardon  
Susanne G. Reardon  
BBO # 561669  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200, ext. 2832

**Commonwealth of Massachusetts  
MIDDLESEX SUPERIOR COURT  
Case Summary  
Criminal Docket**

**Commonwealth v Hunter, Michael K**

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Details for Docket: MICR1993-01084

**Case Information**

<b>Docket Number:</b>	MICR1993-01084	<b>Caption:</b>	Commonwealth v Hunter, Michael K
<b>Entry Date:</b>	07/01/1993	<b>Case Status:</b>	Crim 3 (8A Cambridge)
<b>Status Date:</b>	07/13/2004	<b>Session:</b>	Disposed (appeal pending)
<b>Lead Case:</b>	NA	<b>Deadline Status:</b>	Deadline act
<b>Trial Deadline:</b>	07/21/1993	<b>Jury Trial:</b>	YES

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**Parties Involved**

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2 Parties Involved in Docket: MICR1993-01084

<b>Party Involved:</b>		<b>Role:</b>	Defendant
<b>Last Name:</b>	Hunter	<b>First Name:</b>	Michael K
<b>Address:</b>		<b>Address:</b>	
<b>City:</b>		<b>State:</b>	
<b>Zip Code:</b>		<b>Zip Ext:</b>	
<b>Telephone:</b>			

<b>Party Involved:</b>		<b>Role:</b>	Plaintiff
<b>Last Name:</b>	Commonwealth	<b>First Name:</b>	
<b>Address:</b>		<b>Address:</b>	
<b>City:</b>		<b>State:</b>	
<b>Zip Code:</b>		<b>Zip Ext:</b>	
<b>Telephone:</b>			

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**Attorneys Involved**

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5 Attorneys Involved for Docket: MICR1993-01084

<b>Attorney Involved:</b>		<b>Firm Name:</b>	MA90
<b>Last Name:</b>	Muse	<b>First Name:</b>	Christopher J
<b>Address:</b>	***ASSOC JUSTICE***	<b>Address:</b>	90 Devonshire Street
<b>City:</b>	Boston	<b>State:</b>	MA

**Zip Code:** 02109  
**Telephone:** 617-788-8130  
**Fascimile:** 617-788-8137

**Zip Ext:**  
**Tel Ext:**  
**Representing:** Hunter, Michael K (Defendant)

**Attorney  
Involved:**

**Last Name:** Weinstein  
**Address:** 228 Lewis Wharf  
**City:** Boston  
**Zip Code:** 02110  
**Telephone:** 617-367-9334  
**Fascimile:** 617-367-7358

**Firm Name:**

**First Name:** Elliot M  
**Address:**  
**State:** MA  
**Zip Ext:**  
**Tel Ext:**  
**Representing:** Hunter, Michael K (Defendant)

**Attorney  
Involved:**

**Last Name:** Grant  
**Address:** 40 Thorndike Street  
**City:** Cambridge  
**Zip Code:** 02140  
**Telephone:** 617-494-4050  
**Fascimile:** 617-225-0871

**Firm Name:** MIDD02  
**First Name:** Marguerite T  
**Address:** Appeals  
**State:** MA  
**Zip Ext:**  
**Tel Ext:**  
**Representing:**

**Attorney  
Involved:**

**Last Name:** Lynch  
**Address:** 40 Thorndike Street  
**City:** East Cambridge  
**Zip Code:** 02141  
**Telephone:** 617-494-4050  
**Fascimile:**

**Firm Name:** MIDD02  
**First Name:** Adrienne C  
**Address:** Courthouse  
**State:** MA  
**Zip Ext:**  
**Tel Ext:**  
**Representing:**

**Attorney  
Involved:**

**Last Name:** Leone Jr  
**Address:** 1 Ashburton Place  
**City:** Boston  
**Zip Code:** 02108  
**Telephone:** 617-727-2200  
**Fascimile:** 617-727-5755

**Firm Name:** MA02  
**First Name:** Gerard T  
**Address:**  
**State:** MA  
**Zip Ext:**  
**Tel Ext:** 2810  
**Representing:**

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**Calendar Events**

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33 Calendar Events for Docket: MICR1993-01084

<b>No.</b>	<b>Event Date:</b>	<b>Event Time:</b>	<b>Calendar Event:</b>	<b>SES:</b>	<b>Event Status:</b>
1	07/21/1993	11:00	Arraignment	2	Event held as scheduled
2	08/04/1993	14:00	Conference: Pre-Trial	2	Event held as scheduled
3	09/08/1993	14:00	Hearing: Misc Matters	2	Event continues over multiple days
4	09/21/1993	08:30	Hearing: Misc Matters	2	Event continues over multiple days
5	10/21/1993	14:00	Hearing: Misc Matters	2	Event continues over multiple days
6	11/01/1993	14:00	Hearing: Misc Matters	2	Event continues over multiple days
7	11/10/1993	14:00	Hearing: Misc Matters	2	Event continues over multiple days
8	12/01/1993	14:00	Hearing: Misc Matters	2	Event held as scheduled
9	01/19/1994	14:00	Conference: Status Review	2	Event continues over multiple days
10	01/21/1994	14:00	Conference: Status Review	2	Event continues over multiple days
11	02/23/1994	14:00	Conference: Status Review	2	Event held as scheduled
12	03/25/1994	14:00	Conference: Trial Assignment	2	
13	05/03/1994	14:00	Conference: Trial Assignment	2	Event canceled not re-scheduled
14	05/31/1994	09:00	Hearing: Motion	1	Event held as scheduled
15	07/27/1994	09:00	Conference: Status Review	1	
16	08/03/1994	09:00	Status: Review by Session	1	
17	09/13/1994	09:00	Status: Review by Session	1	Event held as scheduled
18	09/26/1994	09:00	Conference: Trial Assignment	1	Event held as scheduled
19	11/07/1994	09:00	TRIAL: by jury	1	
20	11/14/1994	09:00	Hearing: Motion	3	Trial begins
21	11/14/1994	09:00	TRIAL: by jury	1	
22	11/15/1994	09:00	Hearing: Motion	3	Event held as scheduled
23	11/16/1994	09:00	TRIAL: by jury	3	Trial begins
24	11/21/1994	09:00	TRIAL: by jury	3	Trial begins
25	11/22/1994	09:00	TRIAL: by jury	3	Trial begins
26	11/23/1994	09:00	TRIAL: by jury	3	Trial begins
27	11/25/1994	09:00	TRIAL: by jury	3	Trial begins
28	11/28/1994	09:00	TRIAL: by jury	3	Trial begins
29	11/30/1994	09:00	TRIAL: by jury	3	Trial begins
30	12/01/1994	09:00	TRIAL: by jury	3	Trial begins
31	12/02/1994	09:00	TRIAL: by jury	3	Trial begins
32	12/05/1994	09:00	TRIAL: by jury	3	Trial begins
33	12/06/1994	09:00	TRIAL: by jury	3	Event held as scheduled

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## Full Docket Entries

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327 Docket Entries for Docket: MICR1993-01084

<b>Entry Date:</b>	<b>Paper No:</b>	<b>Docket Entry:</b>
07/01/1993	1	Indictment returned
07/01/1993		Order of notice of finding of murder indictment
07/01/1993		Notice & copy of indictment sent to Chief Justice & Atty Gen

07/01/1993		Notice & copy of indictment & entry on docket sent to Sheriff
07/14/1993	2	Request For Writ Of Habeas Corpus To Receive.
07/14/1993		Habeas corpus for Deft at Concord MCI issued for 7/21/93 at 11:00
07/14/1993		A.M.
07/21/1993	3	Affidavit of indigency filed; approved (Robert A Barton, Justice)
07/21/1993		Appearance of Commonwealth's Atty: Lynch
07/21/1993		Appearance of Deft's Atty: Muse
07/21/1993		Deft arraigned before Court
07/21/1993		RE offense 1: Plea of not guilty
07/21/1993		RE offense 2: Plea of not guilty
07/21/1993		Held without bail or mainprise (Robert A Barton, Justice)
07/21/1993		Mittimus without bail issued.
07/21/1993		Continued until 8/4/93 for PTC by agreement.
07/21/1993		Reporter present: Nancy Lowney
07/21/1993	4	Commonwealth Files Notice Of Discovery.
08/04/1993	5	Pre-trial conference report, filed in Court.
08/04/1993		Continued until 9/8/93 for NEM by agreement.
08/04/1993		Reporter present: Betty Buchanan
09/08/1993		Continued until 9/21/93 for NEM by agreement.
09/08/1993		Reporter present: Nancy Lowney
09/08/1993	6	Motion by Deft: To Be Furnished With Criminal Records, Juvenile
09/08/1993	6	Records And Probation Records.
09/08/1993	7	Motion by Deft: To Inspect Scene.
09/08/1993	8	Motion by Deft: For Approval Of Funds For Expert Witness.
09/08/1993	9	Motion by Deft: For Approval Of Funds For Expert Witness.
09/08/1993	10	Motion by Deft: For Leave To File Further Request For Approval Of
09/08/1993	10	Funds For Expert Witnesses.
09/08/1993	11	Motion by Deft: For Allowance Of Investigative Fees.
09/08/1993	12	Motion by Deft: For Issue Of Idigent Summons.
09/08/1993	13	Motion by Deft: To Inspect And Copy Notes Of Statements Of Defendant
09/08/1993	13	And Witnesses.
09/08/1993	14	Motion by Deft: To Extend Time For Additional Non-Evidentiary
09/08/1993	14	Motions.
09/08/1993	15	Motion by Deft: To Preserve Evidence.
09/08/1993	16	Motion by Deft: To Be Furnished With Statements Of Promise, Rewards
09/08/1993	16	Or Inducements.
09/21/1993		Continued until 10/21/93 for NEM by agreement.
09/21/1993		Reporter present: Nancy Lowney
09/21/1993		Deft Motion #8 allowed not to exceed \$3500 (Robert A Barton, Justice)
09/21/1993		Deft Motion #9 allowed not to exceed \$2500 (Robert A Barton, Justice)
09/21/1993		Deft Motion #10 allowed (Robert A Barton, Justice)
09/21/1993		Deft Motion #11 allowed not to exceed \$3500 (Robert A Barton,
09/21/1993		Justice)
09/21/1993		Deft Motion #12 allowed (Robert A Barton, Justice)



09/21/1993		Deft Motion #13 allowed as to the statements of the defendant and all
09/21/1993		prospective witnesses. (Robert A Barton, Justice)
09/21/1993		Deft Motion #14 allowed (Robert A Barton, Justice)
10/21/1993		Continued until 11/1/93 for NEM by agreement.
11/01/1993		Continued until 11/10/93 for NEM by agreement.
11/01/1993		Reporter present: Nancy Lowney
11/01/1993	17	Motion by Commonwealth: For Laboratory Test Of Existing Sample, Filed
11/01/1993	17	in Court.
11/01/1993	18	Motion by Commonwealth: For Order For Taking Of Blood And Saliva
11/01/1993	18	Samples Of Defendant, With Memorandum, Affidavits And Proposed Order
11/01/1993	18	Attached, Filed in Court.
11/01/1993	19	Commonwealth Files Notice Of Discovery I.
11/01/1993	20	Commonwealth Files Notice Of Discovery II.
11/01/1993	21	Commonwealth Files Notice Of Discovery III.
11/01/1993	22	Commonwealth Files Notice Of Discovery IV.
11/10/1993		Continued until 12/1/93 for NEM by agreement.
11/10/1993		Reporter present: Nancy Lowney
11/30/1993	23	Motion by Commonwealth: For Order For Taking Of Blood And Saliva
11/30/1993	23	Samples Of Defendant, With Memorandum And Affidavits In Support Of,
11/30/1993	23	Filed In Court.
12/01/1993		Continued until 1/19/94 for ATD by agreement.
12/01/1993		Reporter present: Nancy Lowney
12/01/1993	24	Deft Files Opposition To Commonwealth's Motion For Order Taking Of
12/01/1993	24	Blood Samples.
12/01/1993		Comm Motion #23 allowed, there is probable cause to believe that such
12/01/1993		sample will constitute, or lead to the discovery of material evidence
12/01/1993		relevant to determination of the defendant's guilt. (Robert A Barton,
12/01/1993		Justice)
12/01/1993	25	Order Re: Taking Of Samples Of Defendant's Blood And Saliva. (Robert
12/01/1993	25	A Barton, Justice)
12/03/1993	26	Commonwealth Files Notice Of Discovery.
12/20/1993	27	Mittimus-To Common Jail Returned With Service.
01/19/1994		Continued until 1/21/94 for ATD by agreement.
01/19/1994		Reporter present: Nancy Lowney
01/21/1994		Continued until 2/23/94 for ATD by agreement.
01/21/1994		Reporter present: Nancy Lowney
02/17/1994	28	Motion by Deft: For Bill Of Particulars.
02/17/1994	29	Motion by Deft: For Discovery.
02/23/1994		Continued until 3/25/94 for ATD by agreement.
02/23/1994		Reporter present: Nancy Lowney
02/23/1994	30	Commonwealth Files Note Of Discovery.
03/25/1994		Continued until 5/3/94 for ATD by agreement.
03/25/1994		Reporter present: Nancy Lowney
05/03/1994	31	Motion by Commonwealth: Regarding Destructive Testing.

05/03/1994	32	Commonwealth Files Statement of the Case.
05/03/1994		Reporter present: Elizabeth Buchanan.
06/09/1994		Motion (P#31) after hearing the motion is allowed provided that
06/09/1994		arrangement mutually satisfactory to the defendant and the
06/09/1994		Commonwealth are made for defendant's expert to be present at the
06/09/1994		prepared testing .(Robert H Bohn, Justice) copy to attorney and
06/09/1994		district attorney
07/26/1994		Continued until 8/3/94 for status (Mary Aufiero, D/C)
08/03/1994		Continued until 09/13/94 Status
08/03/1994		Reporter present: Elizabeth Buchanan
09/12/1994		Continued until 9/26/94 for ATD (Joseph M Marshall, C/M)
09/20/1994		Continued until 11/7/94 for motions and trial (Joseph M Marshall,
09/20/1994		C/M)
09/30/1994	33	Commonwealth Files Disclosure of Status of Evidence
10/13/1994	34	Commonwealth List of Potential Witnesses Filed in Court
10/13/1994	35	Motion by Commonwealth: For Court Order for the Production of Medical
10/13/1994	35	Records Filed In Court (Re Dr. Singer)
10/13/1994	36	Order Re: Records Of Robert Singer M.D. (Robert A Barton, Justice)
10/13/1994	36	Copy to Adrienne C.Lynch District Attorney
10/13/1994	37	Motion by Commonwealth: For Court Order for the Production of Records
10/13/1994	37	of Lifeline Ambulance Company
10/13/1994		Comm Motion (P#37) allowed (Robert H Bohn, Justice)
10/13/1994	38	Order Re: Records Of Lifeline Ambulance (Robert A Barton, Justice)
10/13/1994	38	Copy to Adrienne C.Lynch District Attorney
10/13/1994		Continued until 11/14/94 by agreement of counsel for motions ,to be
10/13/1994		followed by trial
10/24/1994		Records Received from Robert Singer MD and/or Everett Family Practice
10/24/1994		Records received from Lifeline Ambulance
11/02/1994	39	Motion by Deft To Suppress Evidence
11/02/1994	40	Affidavit of Michael K Hunter
11/02/1994	41	Motion by Deft: In Limine Concerning the Admission of Certain
11/02/1994	41	Declarations Against Penal Interest
11/02/1994	42	Motion by Deft: In Limine
11/02/1994	43	Motion by Deft: In Limine to Limit the Commonwealth's Theory in the
11/02/1994	43	Case
11/02/1994	44	Motion by Deft: In Limine
11/02/1994	45	Motion by Deft: In Limine to Exclude Missing and Destroyed Evidence
11/02/1994	46	Motion by Deft: In Limine: Prior Convictions
11/02/1994	47	Motion by Deft: For Sequestration of Witnesses
11/02/1994	48	Motion by Deft: For Examination of Jurors
11/02/1994	49	Defendant's List of Potential Witnesses
11/04/1994	52	Deft Files Memorandum of Law in Support of Defendant's Motion to
11/04/1994	52	Suppress Evidence
11/04/1994	50	Motion by Commonwealth: to Exclude Evidence of alleged Bad Acts of a

11/04/1994	50	Third Party for Inadmissible Purposes filed
11/04/1994	51	Motion by Commonwealth: for a View filed
11/04/1994	53	Commonwealth files Memorandum in Support of Motion to Exclude
11/04/1994	53	Evidence of alleged Bad Acts of a third Party for Inadmissible
11/04/1994	53	Purposes filed
11/14/1994	54	Commonwealth files Memorandum in Opposition to Deft's Motion to
11/14/1994	54	Exclude Missing and Destroyed Evidence filed in court
11/14/1994	55	Affidavit of Trooper Monte Gilardi filed in court
11/14/1994	56	Commonwealth files Memorandum in Opposition to Deft's Motion to
11/14/1994	56	Suppress Evidence filed in court
11/14/1994	57	Commonwealth files Response to Deft's Motion in Limine to Limit the
11/14/1994	57	Commonwealth's Theory in the Case filed in court
11/14/1994		Appearance of Commonwealth's Atty: Gerard Leone,Jr (associate atty)
11/14/1994		Appearance of Deft's Atty: Daniel Maloney (associate atty) filed in
11/14/1994		court
11/15/1994		Deft's Motion (see #45) Order: motion denied for reason stated on the
11/15/1994		record in open court at the conclusion of the hearing on the motion
11/15/1994		(Patrick J King, Justice)
11/15/1994		Motion (P#42) allowed (Patrick J King, Justice)
11/15/1994		Reporter present: Mary K Hezekiah
11/16/1994	58	Deft's Motion for Payment of Transcription Costs (Expedited) (Nov
11/16/1994	58	14,15,16 & 17,1994 Motion to Suppress) (Patrick J King, Justice)
11/16/1994	59	Commonwealth files List of Potential Commonwealth Witnesses filed in
11/16/1994	59	court
11/17/1994		Motion (P#47) allowed except for within named witnesses (Patrick J
11/17/1994		King, Justice)
11/17/1994		Motion (P#44) denied see Motion (Patrick J King, Justice)
11/17/1994	60	Commonwealth files Response to Deft's Motion in Limine Concerning the
11/17/1994	60	Admission of Certain Declarations Against Penal Interest filed in
11/17/1994	60	court
11/18/1994		Deft's Motion (see #48) Allowed in part, Denied in part (Patrick J
11/18/1994		King, Justice)
11/18/1994		Motion (P#46)Order: allowed (Patrick J King, Justice)
11/18/1994		Jury trial- Juror #8 Pamela Lipton excused from the panel by the
11/18/1994		Court
11/18/1994		Reporter present: Joan Cave
11/21/1994		Motion (P#41) allowed (Patrick J King, Justice)
11/21/1994	61	Deft's Motion for Approval of Costs of Transcription-testimony of Dr
11/21/1994	61	Stanton Kessler-11/22/94) Allowed (Patrick J King, Justice)
11/28/1994		Records received from MCI
12/01/1994	62	Motion by Deft: for Required Finding of Not Guilty offense 001 filed
12/01/1994	62	in court at the close of the Commonwealth's case and after hearing
12/01/1994	62	motion DENIED (Patrick J King, Justice)
12/01/1994	64	Commonwealth files Request for Jury Instructions

12/01/1994	63	Motion by Deft: for Required Finding of Not Guilty offense 002 filed
12/01/1994	63	in court at the close of the Commonwealth's case and after hearing
12/01/1994	63	motion DENIED. (Patrick J King, Justice)
12/02/1994	65	Deft's Supplemental Request for Jury Instructions filed in court
12/02/1994		Motion (P#65) denied (Patrick J King, Justice)
12/02/1994	66	Deft files Supplemental Request for Jury Instructions filed in court
12/02/1994	67	Deft files Supplemental Request for Jury Instructions filed in court
12/02/1994	68	Deft files Supplemental Request for Jury Instructions filed in court
12/02/1994	69	Deft files Supplemental Request for Jury Instructions filed in court
12/02/1994	70	Deft files Supplemental Request for Jury Instructions filed in court
12/02/1994	71	Motion by Commonwealth: in Limine Regarding Closing Arguments filed
12/02/1994	71	in court
12/02/1994		Motion (P#71) allowed (Patrick J King, Justice)
12/02/1994		Motion (P#62) renewed at close of all the evidence and after hearing
12/02/1994		motion denied (Patrick J King, Justice)
12/02/1994		Motion (P#63) renewed at the close of all the evidence and after
12/02/1994		hearing motion Denied (Patrick J King, Justice)
12/05/1994		Motion (P#43) allowed (Patrick J King, Justice)
12/05/1994		After charge and before deliberation jurors #1 Scott Stansfield & #4
12/05/1994		Jean Devereaux were withdrawn from panel Ch234A S44 as amended
12/05/1994		(Patrick J King, Justice)
12/05/1994	72	Verdict Slip-Guilty Murder in the First Degree Commonwealth moves for
12/05/1994	72	sentence
12/07/1994		RE offense 1: Guilty verdict
12/07/1994	73	Verdict offense #002 Guilty offense as charged
12/07/1994		RE offense 2: Guilty verdict
12/07/1994		Sentence imposed: offense #001- Massachusetts Correctional
12/07/1994		Institution Cedar Junction for a TERM OF LIFE (First Degree) offense
12/07/1994		#002 for a term not exceeding twenty years or less than eighteen
12/07/1994		years This sentence to be served concurrently with the sentence
12/07/1994		imposed this day in 93-1084-001 (Patrick J King, Justice)
12/07/1994		Sentence credit given as per 279:33A: 358 credit days
12/07/1994		Notified of right of appeal under Rule 64 (Appellate Division)
12/07/1994		Notified of right of appeal under Rule 65 (Appeals Court)
12/07/1994		Mittimus issued to institution on both offenses
12/07/1994		Reporter present: Joan Cave
12/07/1994		attested copy of indictments sent to MCI, Cedar Junction
12/13/1994	74	Mittimus offenses 001 & 002 returned with service endorsed thereon
12/13/1994		Exhibits List-Exhibits in Exhibit Room not EJS vault
12/28/1994		Court Reporter Joan Cave is hereby notified to prepare one copy of
12/28/1994		the transcript of the evidence of Nov 14th, 16th, 17th, 1994 motions
12/28/1994		and Nov 18th, 21st, 22nd, 23rd, 28th, 29th, 30th and Dec. 1st, 2nd,
12/28/1994		5th, 6th and 7th, 1994 trial before King, J. (If you have any other
12/28/1994		notes that are relevant to this Appeal please forward them to us)

12/29/1994	79	Notice of Appeal
12/29/1994	75	Memorandum of Decision on Defendant's Motion to Suppress Evidence: In
12/29/1994	75	conclusion, for the foregoing reasons, the court denied the
12/29/1994	75	defendant's motion to suppress at the conclusion of the hearing on
12/29/1994	75	No. 17, 1994 (Patrick J King, Justice) copy sent both sides
12/29/1994	76	Motion by Deft: for Renewed Motion for Required Finding of Not Guilty
12/29/1994	77	Motion by Deft: To File Late Renewed Motion for Required Finding of
12/29/1994	77	Not Guilty
12/29/1994	78	Motion by Deft: to Correct Confinement Credit
12/29/1994	80	Withdrawal of appearance requested by atty Muse
12/29/1994		Transcript received from Mary K Hezekiah - Nov 15, 1994 Motion to
12/29/1994		Suppress before King, J (2 volumes)
01/17/1995	81	Appointment of Counsel Weinstein
01/18/1995		Motion (P#77) Allowed Per Phone From Justice King. Both sides
01/18/1995		notified
02/27/1995		Appearance of Deft's Atty: Weinstein
05/03/1996	82	Motion by Deft: for funds to reproduce trial records with an
05/03/1996	82	affidavit in support of
05/16/1996	83	Two sets, five volumes in each set of the transcript of evidence
05/16/1996	83	delivered to the office of the Clerk of Courts this day. (11/14, 15,
05/16/1996	83	15, 16 & 17/94-Motion to Suppress, E. Joan Cave & Mary K. Hezekiah,
05/16/1996	83	Court Reporters)
05/16/1996	84	Two sets, twelve volumes in each set of the transcript of evidence
05/16/1996	84	delivered to the office of the Clerk of Courts this day. (11/18, 21,
05/16/1996	84	22, 23, 28, 29, 30/94 & 12/1, 2, 6 & 7/94-trial & disposition, E.
05/16/1996	84	Joan Cave, Court Reporter)
05/16/1996	85	Notice of assembly of record: Two certified copies of docket entries,
05/16/1996	85	two sets of the transcript of evidence and a list of exhibits sent to
05/16/1996	85	the Clerk of the Supreme Judicial Court this day.
05/16/1996		Notice of assembly of record sent to Elliot Weinstein, Esq. and
05/16/1996		Thomas Reilly, District Attorney.
05/16/1996		Order on defendant's motion #82, allowed for reasonable reproduction
05/16/1996		costs upto a maximum of \$350.00 (Patrick J King, Justice)
11/08/1996		Two sets, one page of the transcript of evidence delivered to the
11/08/1996		office of the Clerk of Courts this day. (Corrected page from #84
11/08/1996		volume 3 page 121, date 11/22/94, E. Joan Cave, Court Reporter)
11/08/1996		Two revised certified copies of the docket entries together with two
11/08/1996		sets, one page from #84 volume #3, page #121, date 11/22/94, of the
11/08/1996		transcript of evidence sent to the Clerk of the Appeals Court this
11/08/1996		day. (SJC 7213) (Atty. Elliot Weinstein & Thomas Reilly, District
11/08/1996		Attorney notified)
01/30/1997	86	Two sets, one volume in each set of the transcript of evidence
01/30/1997	86	delivered to the office of the Clerk of Courts this day (Nov 17,
01/30/1997	86	1994-Vol M3-Part 2 Motion to Suppress) E. Joan Cave, Court Reporter

01/30/1997		Two revised certified copies of the docket entries together with two
01/30/1997		sets, one volume of the transcript of evidence - Nov 17, 1994 Vol
01/30/1997		M3-Part 2-sent to the Clerk of the Supreme Judicial Court this day.
01/30/1997		(SJC #7213) Atty Elliot Weinstein & Thomas Reilly, District Attorney
01/30/1997		notified)
02/20/1998	87	Rescript rec'd from S.J.C. ORDERED, that the following entry be in
02/20/1998	87	the docket; viz.,-- Judgments affirmed. By the Court, Susan Mellon
02/20/1998	87	Assistant Clerk. (see # 87 case #93-1084 002)
03/14/2001	88	Pro Se Motion by Deft: To Waive the Fees amd Costs for the Collection
03/14/2001	88	and Processing of Deoxyribonucleic Acid (DNA) Performed by Prison
03/14/2001	88	Medical Staff with an Affidavit of Indigency and Request for Waiver,
03/14/2001	88	Substitution or State Payment of Fees and Costs. (copy to Judge King)
05/25/2001		Motion (P#88) ORDER: Motion denied (Patrick J. King, Justice) deft.,
05/25/2001		D.A. notified & certified copy sent to institution
10/27/2003	89	Motion by Deft: for a New Trial with Affidavit and Memorandum in
10/27/2003	89	Support Thereof Attached thereto.
11/17/2003	90	PROCEDURAL ORDER: The defendant has file a motion for post
11/17/2003	90	conviction relief. The Court ORDERS that the Commonwealth file a
11/17/2003	90	reponse to the defendants pending motion on or before December 12,
11/17/2003	90	2003
12/11/2003	91	Motion by Commonwealth: to Extend time for filing Memorandum of Law
12/11/2003	91	In Opposition to Defendants Motion for a New Trial
12/11/2003	92	Affidavit of Marguerite Grant in Support of Commonwealths Motion to
12/11/2003	92	Extent time for filing Memorandum of Law in Opposition to Defendants
12/11/2003	92	Motion for New Trial
01/09/2004	93	Second Motion by Commonwealth: to Extend Time for Filing Memorandum
01/09/2004	93	of Law in Opposition to Defendant's Motion For a New Trial (copy to
01/09/2004	93	Judge Graham)
01/12/2004	94	Commonwealth files Affidavit of Marguerite T. Grant in Support of
01/12/2004	94	Commonwealth's Second Motion to Extend Time For Filing Memorandum of
01/12/2004	94	Law In Opposition to Defendant's Motion For A New Trial.
02/03/2004		Motion (P#93) allowed Quinlan, J
02/26/2004	95	Motion by Deft: Pro Se Motion To Compel Reply (copy Quinlan, J.) Copy
02/26/2004	95	ADA
03/22/2004	96	Commonwealth files Memornadum of Law in Opposition to Defendants
03/22/2004	96	Motion for a New Trial
04/23/2004	97	ORDER REFERRING DEFENDANTS MOTION FOR NEW TRIAL: The defendant has
04/23/2004	97	filed a Motion for New Trial. The Motions are assigned to Brassard,
04/23/2004	97	J in the 2nd Criminal Session ( CourtRoom 12B for determination.
04/23/2004	97	(Regina Quinlan, Regional Administriative Justice )
05/18/2004	98	Motion by Deft: to Stay Proceedings( Sent to Brassard, J)
06/15/2004	99	Letter received from CPCS: Because the defendant in the above
06/15/2004	99	entitled case has no automatic right to counsel under the laws of the
06/15/2004	99	Commonwealth or the rules of the supreme judicial court (GLc 211D,



06/15/2004	99	Sec 5) in this proceeding, I assigned this case to a member of the
06/15/2004	99	Committee for Public Counsel Services Post-Conviction Collateral
06/15/2004	99	Screening Panel The assigned attorney was directed to review this
06/15/2004	99	case and advise my designee, CPCS Director of Criminal Appeals,
06/15/2004	99	Private Counsel Division,whether we should exercise my statutory
06/15/2004	99	authority of 211D sec 6(b)(iii) to appoint private counsel We have
06/15/2004	99	decided not to assign counsel in this matter The Committee has
06/15/2004	99	informed the defendant of that decision We have also explained that
06/15/2004	99	we have a packet of materials describing how a prisoner can proceed
06/15/2004	99	pro se
06/16/2004		Motion (P#98) After review of the papers, including the decision of
06/16/2004		the Committee not to assign counsel, Denied (Brassard,J)
06/25/2004	100	MEMORANDUM OF DECISION AND ORDER ON DEFENDANTS MOTION FOR A NEW
06/25/2004	100	TRIAL. The Defendants Motion for a New Trial is Denied. Brassard, J
07/13/2004	101	NOTICE of APPEAL FILED by Michael K Hunter on Memorandum of Decision
07/13/2004	101	and Order on Defendant's Motion For A New Trial

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## Charges

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2 Charges for Docket: MICR1993-01084

<b>No.</b>	<b>Charge Description:</b>	<b>Indictment:</b>	<b>Status:</b>
1	Robbery, unarmed, victim 65+	MIDA93-01084	Guilty verdict
2	Murder, 1st degree	MIDA93-01084	Guilty verdict